IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

Bail Appl..No. 4138 of 2007()

CRIME NO.434/07 OF PERINTHALMANNA POLICE STATION

PETITIONERS/ACCUSED 1 & 2:

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1. FAROOQ @ FAROOQ USMAN, AGED 24 YEARS,
   S/O. USMAN KOYA, PONOTH HOUSE, THACHACKADU,
   KARINGALLATHANI, PERINTHALMANNA, MALAPPURAM.

2. ABU,
   PONOTH HOUSE, THAZHACKADU, KARINGALLATHANI,
   PERINTHALMANNA, MALAPPURAM.

BY ADV. SRI.MANSOOR.B.H.

RESPONDENTS: COMPLAINANT:

THE STATION HOUSE OFFICER,
PERINTHALMANNA POLICE STATION, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ALONG WITH B.A.NO.4170 ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NOs. 4138 & 4170 OF 2007

Dated this the 11th day of July, 2007

ORDER

Applications for anticipatory bail. About an incident which took place on 21/6/07, the police have registered a case and a counter case. Accused in both cases have come before this Court with these applications for anticipatory bail. In both cases, the accused face allegations, inter alia, under Secs.308 and 324 read with Sec.34 of the IPC. Injuries suffered are simple; but an allegation under Sec.308 of the IPC is also raised in both cases. That allegation is raised and is attempted to be supported on the basis of a statement of the Doctor that death could have been caused with a weapon like the one allegedly used in the incident, if the injuries were suffered on the vital parts of the body.

2. The averments in the petitions show that the dispute has been settled and the offences compounded by the rival

contestants. Both sides, in these circumstances, pray that appropriate directions may be issued under Sec.438 of the Cr.P.C. in favour of the petitioners in both cases.

3. The learned Public Prosecutor submits that the State has not been informed or apprised of any such settlement. However, in the nature of the facts and circumstances of this case, the applications for anticipatory bail are not seriously opposed, submits learned Public Prosecutor.

4. I am satisfied, in these circumstances, that appropriate directions under Sec.438 of the Cr.P.C. can be issued in favour of the petitioners in both cases.

5. In the result, this petitions are allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners in both cases shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 18/7/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 19/7/07 and thereafter as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 18/7/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 18/7/07.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge